

## **REMARKS**

The above Amendments and these Remarks are in reply to the Office Action mailed April 4, 2007. Claims 1, 2, 7, 8, 24, 25, 30, 31 and 33-47 were pending in the Application prior to the outstanding Office Action. Claims 1, 7, 24, 30, 31, 44 and 46 are being amended. Claims 1, 2, 7, 8, 24, 25, 30, 31 and 33-47 remain for the Examiner's consideration. Reconsideration and withdrawal of the rejections are respectfully requested.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 101**

Claims 24, 25 and 35 are rejected under 35 U.S.C. §101 as allegedly being drawn to non-statutory subject matter.

Claim 24 has been amended to clarify that the fastener is adapted to surround the spinous processes. The Examiner is thanked for his careful reading of the claims.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 102(b) rejection.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1, 2, 7, 8, 24, 25, 30, 31 and 33-47 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Tofflemire, U.S. Patent No. 2,502,902 (hereinafter '292).

Amended Claims 1, 7, 24, 30 and 31 all includes the limitation "a planar unitary body". Since '292 does not teach a planar unitary body it does not disclose all limitations

of Claim 1. Accordingly, amended Claims 1, 7, 24, 30 and 31 are not anticipated by ‘292.

Amended Claim 44 includes the limitation “a flat unitary body”. Since ‘292 does not teach a flat unitary body it does not disclose all limitations of Claim 1. Accordingly, amended Claim 44 is not anticipated by ‘292.

Amended Claim 46 includes the limitation “a planar body”. Since ‘292 does not teach a planar body it does not disclose all limitations of Claim 1. Accordingly, amended Claim 46 is not anticipated by ‘292.

Claims 2, 8, 25, 33-43, 45 and 47 all directly or indirectly depend from independent Claims 1, 7, 24, 30, 31, 44 and 46, and are therefore believed patentable for at least the same reasons as the independent Claims 1, 7, 24, 30, 31, 44 and 46 and because of the additional limitations of these claims.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 102(b) rejection.

## CONCLUSION

In light of the above, it is respectfully requested that all outstanding rejections be reconsidered and withdrawn. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this reply, including any fee for extension of time, which may be required.

Respectfully submitted,

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